

Todd P. Davis

Partner

Trial and Global Disputes

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Todd Davis is a partner with King & Spalding's Trial & Global Disputes practice group. For the last twenty-eight years, Mr. Davis' practice has been devoted to trying high-stakes products liability cases, including those involving medications, medical devices and consumer products. His involvement includes cross-examining plaintiffs' key causation and medical expert witnesses at trial and in deposition. Mr. Davis' practice involves representing pharmaceutical and medical device companies, as well as other product manufacturers, in mass tort, consumer fraud and class action litigation.

Mr. Davis has been recognized in Legal 500's Product Liability and Mass Tort Defense in the Pharma and Medical Device category.

Matters

Trying three cases for **GlaxoSmithKline** in the Philadelphia Court of Common Pleas, Pennsylvania, alleging that Paxil causes birth defects (2016, 2010, 2009). In two trials, the courts dismissed plaintiffs' claims because plaintiffs could not prove proximate causation. In the third, which was plaintiffs' No. 1 pick for trial, plaintiffs were awarded compensatory damages less than the actual medical expenses incurred and no punitive damages.

Trying the first "innovator liability" prescription drug case to go to trial (*Dolin v. GSK*, 2017).

Trying cases for R.J. Reynolds Tobacco Company as part of the *Engle*-progeny litigation in Florida (2013, 2014, 2018, 2019 and 2020).

Representing **medical device and pharmaceutical companies** in federal multi-district litigation and state consolidated proceedings. Defeating efforts to certify a **nationwide class** of Paxil users under personal injury and consumer fraud theories. *In re Paxil*, 212 F.R.D. 539 (C.D. Cal. 2003). This decision has been referred to as one of the "Big Four" federal court rulings denying class certification in pharmaceutical cases. *See In re Prempro Prods. Liab. Lit.*, 230 F.R.D. 555 (E.D. Ark. 2005).

Defeating efforts to certify a **statewide claim** of Paxil users under California's Unfair Competition Law, § 17200. *In re Paxil*, 218 F.R.D. 242 (C.D. Cal. 2003).

Defeating efforts to certify a **nationwide class** of pediatric patients who were prescribed a

medication not approved by the FDA to treat patients under 18. *Pamela Blain, et al. v. SmithKline Beecham Corp.*, 240 F.R.D. 179 (E.D. Pa. 2007).

Obtaining summary judgments based on federal preemption of state law **failure-to-warn claims** in cases involving a prescription medication. *E.g., O'Neal v. SmithKline Beecham Corp.*, 551 F.Supp.2d 993 (E.D. Cal. 2008); *Candace Miller et al v. SmithKline Beecham Corporation, d/b/a GlaxoSmithKline*, slip op., 2008 WL 510449 (N.D. Okla).

Successfully excluding plaintiff's experts' opinions that breast implants cause systemic illness on **Daubert grounds** in the first breast implant case set for trial in Georgia. Mr. Davis successfully defended that decision on appeal in the first federal appellate decision in the country addressing *Daubert* issues in the breast implant litigation. *Allison v. McGhan Medical Corp.* 184 F.3d 1300 (11th Cir. 1999).

Successfully defending a **product liability lawsuit** filed in the "rocket-docket" of the U.S.D.C., Eastern District of Virginia that involved allegations that a uniformed officer of the Secret Service committed murder and then suicide because of a prescription medication. After an intensive 2-1/2 month discovery period, plaintiff dismissed his lawsuit on the eve of trial. The defendant paid nothing in settlement.

Successfully defending on appeal summary judgment for a **pharmaceutical manufacturer** based upon the learned intermediary doctrine. *Allgood v. SmithKline Beecham Corp. d/b/a GlaxoSmithKline*, No. 06-cv-3506, 2008 WL 483574 (E.D. La. Feb. 20, 2008), *aff'd* by No. 08-30329, 2009 WL 646285 (5th Cir. Mar. 13, 2009), *reh'g denied* by No. 08-30329 (5th Cir. May 6, 2009).

Obtaining summary judgment in a **product liability lawsuit** involving a prescription medication within four months after plaintiff filed his lawsuit, *Howard v. GlaxoSmithKline*, Case No. 05-1525 (U.S.D.C., E.D. Cal.) *aff'd* (9th Cir. 2007), and obtaining summary judgments in two product liability wrongful death lawsuits when plaintiffs' claimed they did not timely file their lawsuit because of the defendant's "fraudulent concealment." *Pamela Blain, et al., v. SmithKline Beecham Corporation d/b/a GlaxoSmithKline*, Civil Action No. 07-1157- MLB-DWB (U.S.D.C., D. Kan.); *Collins v. SmithKlineBeecham Corp.*, Philadelphia Court of Common Pleas, Pennsylvania, *aff'd* on appeal.

Managing massive electronic discovery and hard copy productions and coordinating discovery of plaintiffs' claims.

Successfully defending against motions to compel that sought thousands of privileged documents in **personal injury lawsuits** involving prescription medications.

Major responsibility in **several hundred breast implant cases** in Georgia, Florida, Alabama, Mississippi, Tennessee, South Carolina, North Carolina, Virginia and the District of Columbia. Mr. Davis second-chaired the trial of the first breast implant case tried in Tennessee. The trial lasted five-and-a-half weeks and included claims of both local and systemic injury. The jury returned a defense verdict.

Successfully arguing for **transfer of a host of cases** to the plaintiffs' home states under 28 U.S.C. § 1404. (Plaintiffs attempted to bring their lawsuits in the state of the pharmaceutical company's business office as opposed to the states of their residence.)

Defending **high-ranking company executives** in depositions.

Representing a **manufacturer** in an emergency appeal of an order allowing plaintiffs to depose the manufacturer's in-house litigation counsel. In an appeal to the Kentucky Supreme Court, Mr. Davis successfully argued for reversal of the trial court's order.

Credentials

EDUCATION

J.D., Mercer University, magna cum laude

B.A., Stetson University, cum laude

ADMISSIONS

U.S. Court of Appeals for the Fifth Circuit

U.S. Court of Appeals for the Sixth Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals for the Tenth Circuit

U.S. Court of Appeals for the Eleventh Circuit

U.S. District Court for the Middle District of Florida

U.S. District Court for the Middle District of Georgia

U.S. District Court for the Northern District of Georgia

U.S. District Court for the Southern District of Georgia

Florida

Georgia

ASSOCIATIONS

American Bar Association

State Bar of Georgia

Atlanta Bar Association

The Florida Bar

Sixth and Eleventh Circuit Court of Appeals

Insights

ARTICLE

March 27, 2015 • Source: Washington Legal Foundation

First Circuit Breathes New Life Into Branded Drug Preemption Defense

CLIENT ALERT

March 2, 2015

First Circuit Finds Federal Preemption of State Tort Claims That Conflict With A Medication's FDA-Approved Labeling & Warning

Events

CONFERENCE

November 12, 2019

12th Annual King & Spalding Pharmaceutical University

September 5, 2019

12th Annual Medical Device Summit

News

IN THE NEWS

January 15, 2020 • Source: Law360

Todd Davis counsels GSK in the first trial in a multidistrict case over the company's Zofran medication

November 6, 2019 • Source: Global Legal Chronicle

Cory Hohnbaum, Antonio Lewis, Chad Peterson, Todd Davis, Jeanine Novak, Kevin Kucharz, Toby Tatum, Patrick Price and Rebeca Ojeda secure a dismissal for R.J. Reynolds on the eve of a trial in Florida

July 12, 2019 • Source: Law360 and Bloomberg Law

Chilton Varner, Andy Bayman, Heather Howard, Todd Davis and Ursula Henninger successfully represent GSK in the dismissal of a case seeking to reinstate a \$3M award against the company that was overturned

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